IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

OP.No. 14944 of 2003(D)

PETITIONER:

JAYARAJAN, S/O.JOHN, AGED 43 RESIDING
AT A.KARUMKULAM, PUTHIYATHURA,
NEYYATTINKARA.

BY ADV. SRI.R.T.PRADEEP

RESPONDENTS:
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1. ASSISTANT EXCISE COMMISSIONER,
OFFICE OF THE ASSISTANT EXCISE COMMISSIONER,
THIRUVANANTHAPURAM.

2. TAHSIDAR (RR),
THIRUVANANTHAPURAM.

3. JANETT, J.J.BHAVAN,
AZHANKAL, ATHULYA,
NEYYATTINKARA.

R1&2 BY GOVERNMENT PLEADER SRI.C.K.GOVINDAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.24951/2003 IN O.P. NO.14944/2003

DISMISSED:

23.11.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF LICENCE OF FL.I FOREIGN LIQUOR SHOP NO.217/95-96 DT.5.3.95.

P2: TRUE COPY OF ORDER DT.30.10.95.

P3: TRUE COPY OF NOTICE FOR SALE DT.31.3.2003 IN THE R.R. PROCEEDINGS.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.14944 of 2003

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Dated this the 23rd day of November, 2007.

JUDGMENT

The petitioner is challenging recovery proceedings for recovery of arrears of sales tax. Petitioner's case is that petitioner could not run the business on account of riot and other problems. The petitioner has also produced order of the Assistant Excise Commissioner cancelling the registration in November 1995. The petitioner has not produced the assessment order based on which recovery is initiated. I do not think the O.P. should be entertained without challenge against the main order. If on facts the petitioner has not carried on business, it was for the petitioner to raise the contention in adjudication proceedings when assessment was done. If petitioner had grievance against assessment, there are two levels of appeals before statutory authorities. It is not known why petitioner has approached this court challenging the recovery proceedings alone. The O.P. is accordingly closed leaving freedom to the petitioner to take up the matter before statutory authorities. If order of assessment is not served, it is for the petitioner to collect the order, file appeal, explain the delay and move the appellate authority.

C.N.RAMACHANDRAN NAIR
Judge

pms